

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Lawrence Livermore National
Laboratory (LLNL)
7000 East Avenue
Livermore, California 94550

EPA ID. NO.: CA2 890 012 584

The U. S. Department of
Energy and the Regents of
the University of California

Respondents.

Docket HWCA 20020090

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and the U. S. Department of Energy (DOE), a department of the federal government, and to the Regents of the University of California(Regents), the governing board of the University of California System, established under Article IX, Section 9 of the California Constitution [Respondent] enter into this Consent Order and agree as follows:

1. Respondents generate, handle, treat, and/or store hazardous waste at the following site: Lawrence Livermore National Laboratory (LLNL), 7000 East Avenue, Livermore, California (Site).
2. The Department inspected the Site on March 20-24, 2000, May 22-24 & 30, 2002 and March 17-19 & 21, 2003.
3. The Department alleges the following violations:

3.1. The Respondents violated Health and Safety Code section 25202(a), Interim Status Document (ISD) Part II.1.(a) in that on or about March 20, 2000, the facility had stored over one year without authorization, treated mixed wastes to wit:

a) a 30-gallon container of treated mixed shredder waste (F002 with radioactive constituents), meeting Land Disposal Restrictions standards (LDR). The mixed waste contaminated with trichloroethylene, container Q00047005, was received on June 3, 1998 at Area 514-2.

b) an 85-gallon overpack, Q00026226/Q00016580/W105939, containing a 55-gallon treated mixed waste (F005 with radioactive constituents) meeting LDR. The mixed waste contaminated with toluene, has been in storage at Container Storage Unit B-514-2, since the treatment date of April 12, 1996.

On April 28, 2000, Respondents requested an extension for continued storage for the two containers described above.

3.2. The Respondents violated Health and Safety Code section 25202(a), ISD Part VII.1.a., and California Code of Regulations, title 22, section 66265.13 in that, on or about June 3, 1998, Area 514-2 facility received, treated and stored a container of liquid shredder waste, Q00047005, without following the facility's Waste Analysis Plan, as evidenced by the lack of a Waste Disposal Requisition (WDR). The Waste Analysis Plan requires that a WDR accompany the waste from the point of generation through its acceptance into an authorized storage facility.

During the March 20, 2000 inspection, Respondents returned to compliance with the facility's waste analysis plan by preparing and providing to the Department a completed Waste Disposal Requisition record for the treated mixed shredder waste contaminated with trichloroethylene, Q00047005.

3.3. The Respondents violated Health and Safety Code section 25202(a), and California Code of Regulations, title 22, section 66264.16(c) in that on or about

March 20, 2000, the required refresher training for specific Hazardous Waste Management (HWM) employees was not provided or completed as follows: EP 5120-002, B513 Solidification Unit; EP5120-004, Area 514 Facility Quadruple Tank system; EP5120-023B, Area 514 Wastewater Bulking Station; EP5120-023C, Area 514 Wastewater Treatment Tanks; EP5120-035, Ultra Grip Drum Handler; EP5120-038, 1000/5000 Gallon Vacuum Tankers; EP5120-041, Bldg 513, Area 514-1,2,3 Container Storage Units; EP5200-006, Waste Sampling OJT; EP0007, Waste Process and Matrix Identification; EP5070-001, field fingerprint Verification; EP5102-003, Reading Program-Mgmt & Operations Personnel; EP5120-022, Waste Management Unit Inspection, Procedures, and Emergency Response for B233; EP5120-026, Waste Management Unit Inspection, Procedures, and Emergency Response for B693; EP5120-033, Liquid Waste Pump outs and Vacuum Tankers; EP5200-005, Field Sampling; EP5070-001, Field Fingerprint Verification; EP5200-006, Waste Sampling OJT.

Respondents demonstrated its efforts to rectify the training deficiencies noted in that, on July 23, 2001 Respondents provided the Department updates to the refresher training status of specific HWM personnel. Based on the July 23, 2001 submittal, the required training had been provided to the employees.

3.4. The Respondents violated Health and Safety Code, section 25202(a), California Code of Regulations, title 22, section 66270.30(a), HWFP, Parts III.2.(b) , and IV.10.(a) in that, on or about May 23, 2002, two containers of hazardous wastes were stored for greater than the one year limit in Building 693-1008, Container Storage Unit, to wit:

a. Container Q00060399, a 55-gallon drum containing spent inorganic liquid, trimsol 10%, labeled with a permitted storage unit (TSDF) acceptance date of February 8, 2001.

b. Container Q00060291, a 55-gallon drum containing spent inorganic liquid mop water, labeled with a TSDF acceptance

date of March 15, 2001.

The two 55-gallon hazardous waste containers of spent inorganic trimsol, Q00060399 and spent inorganic liquid containing mop water, Q00060291 were sent to Safety-Kleen on May 28, 2002.

3.5. The Respondents violated Health and Safety Code, section 25202(a), California Code of Regulations, title 22, section 66270.30(a), HWFP, Parts III.2.(b) , and IV.10.(a) in that, on or about April 12 and September 19, 2001, two containers of mixed wastes were being stored for greater than the one year limit in Area 612, Container Storage Unit, to wit:

a. Container Q00043498/W154435, spent organic solid lab trash, waste codes- F002, F005, 352, TSDF start date -04/11/00;

b. Container Q00053568/W154136, spent organic lab trash, waste codes-D040, 352, TSDF start date-09/18/00.

On April 12, 2002, Respondents requested an extension for continued storage for the two containers described above.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged in the inspections referenced in paragraph 2 above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

9. Respondents shall comply with the following:

9.1.1. Effective immediately, all requests for continued storage of treated mixed wastes meeting LDR shall be made to the Department at least 30 days before the

one year allowable limit in the HWFP is reached. Each request shall include sufficient information to identify the waste such as: RCRA waste code(s) before and after treatment; source of the hazardous waste constituents and how the waste was generated; and volume of the waste in storage.

9.1.2. Within 30 days of the effective date of this Enforcement Order, and semi-annually thereafter, Respondents shall submit to the Department an inventory of all treated wastes that meet LDR and that have exceeded the one year storage limit allowed in the HWFP. The inventory shall include all information required in the operating record per California Code of Regulations, title 22, section 66264.73 or 66265.73 as appropriate. The submittal shall also include a description of their on-going efforts to locate a disposal facility for the treated mixed wastes in the inventory. For wastes that have been shipped off-site during the reporting period, the shipment date and destination of the waste shall be recorded. Respondents shall maintain and make available to the Department manifests, waste analysis or waste identification records and land ban disposal certifications/notifications associated with each shipment.

9.1.3. Respondents shall maintain and make available to the Department for review personnel records of completed training on the importance of waste tracking and of Waste Disposal Requisitions.

9.2. Submittals: All submittals from Respondents pursuant to this Consent Order shall be sent to:

Ms. Luz T. Castillo
Senior Hazardous Substances Scientist
Statewide Compliance Division
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710

9.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her

designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

9.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

9.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

9.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

9.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

9.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondents shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Consent Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondents for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondents shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

9.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents or related parties specified in paragraph 11.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondents or its agents in carrying out activities pursuant to this Consent Order.

9.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondents pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

9.12. Extension Requests: If Respondents are unable to perform any activity or submit any document within the time required under this Consent Order, the Respondents may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

10. Within 30 days of the effective date of this Consent Order, Respondents shall pay the Department a total of \$ 31,300 of which \$ 15,661.69 is a penalty and \$ 15,638.31 is reimbursement of the Department's costs. Respondents check shall be made payable to Department of Toxic

Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Ms. Luz T. Castillo
Senior Hazardous Substances Scientist
Statewide Compliance Division
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710

Mr. Joseph Smith
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

If Respondents fails to make payment as provided above, Respondents agree to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

11.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

11.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondents to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

11.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondents and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

11.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

11.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

11.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: 1/21/04 (Original signed by Dennis K. Fisher)
Typed or Printed Name and Title of Respondent's
Representative
REGENTS OF THE UNIVERSITY OF CALIFORNIA

Dated: 1/28/04 (Original signed by Phil Hill)
Typed or Printed Name and Title of Respondent's
Representative
U.S. DEPARTMENT OF ENERGY

Dated: 2/5/04 (Original signed by Luz T. Castillo)
Luz T. Castillo
Senior Hazardous Substances Scientist

DEPARTMENT OF TOXIC SUBSTANCES
CONTROL